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IN THE

Supreme Court of the United States

OCTOBER TERM, 1906.

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No. 5. ORIGINAL CAUSE. IN EQUITY

No. Or
O. T. 190

THE STATE OF GEORGIA, BY ITS ATTORNEY GENERAL JOHN C. HART, *Plaintiff*

vs.

THE TENNESSEE COPPER COMPANY, AND THE DUCKTOWN SULPHUR, COPPER & IRON COMPANY, LIMITED, *Defendants*

The Answer of the Defendant Tennessee Copper Company to the Bill of Complaint.

MARTIN H. VOGEL,
Of Counsel

HOWARD CORNICK,
JOHN H. FRANTZ,
Attorneys for Tennessee Copper Company

EVENING POST JOB PRINTING OFFICE, NEW YORK.

IN THE SUPREME COURT OF THE UNITED STATES.

STATE OF GEORGIA, *by Its Attorney General,* JOHN C. HART, *Plaintiff,* vs. TENNESSEE COPPER COMPANY and DUCKTOWN SULPHUR, COPPER AND IRON COMPANY (LIMITED), *Defendants.*	Original No. 5. In Equity.

THE SEPARATE ANSWER OF THE TENNESSEE COPPER COMPANY, ONE OF THE DEFENDANTS IN THE ABOVE ENTITLED CAUSE.

TO THE HONORABLE, THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES, SITTING IN EQUITY:

Comes now the defendant, the Tennessee Copper Company, and answering separately the original bill heretofore filed against it in the above entitled cause, and saving to itself the benefit or advantage of all manner of exception or otherwise that can or may be had or taken to said original bill on account of its many errors, uncertainties and imperfections therein and also reserving to itself the benefit of all questions made in its demurrer heretofore filed which properly enure to it under the action of the Court thereon, for answer thereto, or to so much

thereof as this defendant is advised it is necessary or material for it to answer, answering says:

FIRST.

Respondent is content to admit the allegations set forth in the first paragraph of the bill.

SECOND.

In response to the allegations in the second paragraph of the bill respondent denies that (either as a matter of law or of fact) the plaintiff is the original and ultimate proprietor of all lands within its territorial jurisdiction, but is advised and charges that even if by operation of law the plaintiff should be held to be the ultimate proprietor of such lands its interests therein are of such remote and contingent nature that she could not maintain an action on account of an alleged injury thereto. Respondent denies that the plaintiff is the owner in fee of the public highways within her territorial limits. While it may be true that plaintiff has a general supervision by law over such highways, it is denied that the plaintiff has such direct property interest therein as to entitle her to maintain an action for alleged injury thereto.

THIRD.

With respect to the allegations contained in the third paragraph of the bill respondent is advised, and charges that whether or not said allegations are true, is a question of law for the consideration of the Court, and is not an allegation of fact to either be admitted or denied by respondent.

FOURTH.

It is true as stated in the fourth paragraph of the bill that this respondent and its co-defendant, the Ducktown Sulphur,

Copper and Iron Company, Limited, were at the time of the filing of the bill and prior thereto had been engaged in mining and smelting copper ores and in producing and manufacturing copper in Polk County, Tennessee, a short distance from the dividing line between the State of Tennessee and the State of Georgia. It is not true that either this respondent or the said Ducktown Sulphur, Copper & Iron Company, Limited, was at that time engaged in "roasting" said ores, or that either of said defendants were engaged in the mining, roasting, reducing, smelting or manufacture of "sulphur ores," as alleged in the bill. It is likewise true that both this respondent and its said co-defendant have in the conduct of its said business erected and constructed and own and are now operating furnaces, smelters and reduction appliances in value many times in excess of $2,000.00, but it is not true, as alleged in the bill, that each of said defendants well knew before said construction was begun or appliances installed that the use or operation thereof would work both a public and private nuisance and result in irreparable injury to plaintiff and her citizens as alleged in said fourth paragraph of the bill. As will be hereinafter more fully set out, this respondent denies that the erection or operation of its said plant and works creates either a public or private nuisance, and likewise denies that it results in irreparable injury, or in fact any injury whatever, either to plaintiff or her citizens.

FIFTH.

The allegations in the fifth paragraph of the bill are untrue and denied. It is not true, as stated in said paragraph, that in the use of said furnaces, smelter and appliances respondent and its co-defendant generate and discharge upon the territory of plaintiff and over the counties of Murray, Gilmer, Fannin, Union and Towns vast quantities of smoke, sulphur fumes, and

noxious and poisonous vapors and gases, making the atmosphere unwholesome, dense, impure and unpleasant. It is doubtless true that in the operation of the plants of the defendants some smoke arising therefrom in their necessary and skillful operation passes over into the domain of plaintiff, and it may be true also that a small amount of gas emanating from the said plants in their necessary and skillful operation is blown by the winds across the line and into territory over which the plaintiff exercises political sovereignty, but respondent will show to the Court that it generates at this plant no noxious and poisonous vapors, fumes or gases whatever, and the small amount of smoke and gases necessarily arising from the operation of the aforesaid plants is discharged into the atmosphere at a very high altitude, and such of it as passes into the air current over the territory of plaintiff reaches it in a diluted state, and does not in any way interfere with the pure air or sunlight thereof, and that it creates neither impure, unwholesome or unpleasant atmospheric conditions.

SIXTH.

The allegations in the sixth paragraph of the bill are denied. As stated in paragraph five above, it is denied that any nuisance either public or private is created by the operation of the plants of defendant, and it is specifically denied that irreparable injury is being inflicted upon plaintiff or her citizens.

SEVENTH.

The allegations in the seventh paragraph of the bill are denied. As will be hereinafter more fully shown, it may be true that some years ago and prior to the adoption of the present methods of treating ore by the respondent and its co-defendant, some damage was done by gases arising from the roast

heaps of the defendants which may have affected some vegetation and trees within a small area of the State of Georgia immediately adjacent to the aforesaid state line, but it is not true that at the present time or at the time of the filing of the bill any damage or injury whatever are or were being done to any vegetation, crops, grasses, fruits or timber within the State of Georgia, and it is especially denied that any damage has been done by reason of said smoke, fumes and gases to the lands, highways and income of plaintiff, or that any is being done at the present time.

EIGHTH.

The allegations in the eighth paragraph of the bill are untrue and are denied. If it is true that damage has been done within the State of Georgia to plant life and forests, respondent alleges that said damage has been done by other causes than those alleged in the bill, to wit, by forest fires, ravages of insects and other causes wholly beyond the control and wholly without the fault of respondent. Respondent especially denies that any injury or damage has been done, is being done or will be done to the rivers, springs and streams within the State of Georgia by reason of fumes and gases arising from the plants of defendants, and alleges that any injury or damage being done in this respect is attributable to forest fires, insects and other causes wholly beyond the control of respondent.

NINTH.

The allegations in the ninth paragraph of the bill are denied. Whatever injury or destruction there has been of the timber and forests have been caused as respondent is informed, believes and alleges by the causes set forth in the foregoing paragraph numbered eight, and other causes wholly without

fault of respondent and beyond the control of respondent, all of which will be fully shown to the Court on the hearing.

TENTH.

The allegations set forth in the tenth paragraph of the bill are denied. Respondent denies especially that if there be any washing of the soil as is in the bill alleged, that it is in any wise attributable to the action of any fumes, gases or smoke originating from its plant.

ELEVENTH.

The allegations in paragraph eleven of the bill are denied. Respondent alleges, as has already heretofore been fully set forth, that whatever injury or destruction there has been of the timber in the State of Georgia has been caused and is being caused by other causes than those set forth and complained of in the bill, and causes wholly beyond the control of respondent and for which respondent is in no wise responsible. Respondent especially denies that there has been any damage to the roads and highways within the State of Georgia by reason of any gases, vapors, smoke or fumes arising from its plant, and will show to the Court that the present condition of the roads within the State of Georgia is as good as has ever been known, and respondent denies that by reason of any gases, vapors, smoke or fumes the said roads have been rendered unhealthful, uncomfortable, undesirable, unpleasant or unsatisfactory for commerce or travel.

TWELFTH.

The allegations in the twelfth paragraph of the bill are denied. Respondent alleges that not only have the values of lands and property not been decreased within the counties

named in said paragraph, to-wit, Murray, Gilmer, Fannin, Union and Towns by reason of the operations of respondent, but respondent alleges that the values of said lands and property have been actually increased very largely by the erection and operation of the plant and works of respondent and its co-defendant by reason of the fact that respondent employs and its co-defendant employs large numbers of laborers and operators to whom they pay good wages, and in this way have built up towns and have created a market for all the products of the lands in said counties, and have thereby enabled said lands to produce an income to the proprietors thereof, and have much increased the value of same in this way, not only to the proprietors of said lands, but upon the market to such as desire to sell the same.

THIRTEENTH.

The allegations of the thirteenth paragraph of the bill are denied. For the reasons set forth in the foregoing paragraph numbered twelve, not only is it not true that the values of the lands and property have been reduced in said territory, but they have been actually increased by reason of the operation of respondent's plant, and not only have the public revenues of the State of Georgia not been reduced by reason of the matters complained of, but respondent alleges and will show upon the hearing that said public revenues have by reason of the matters above set forth been largely increased.

FOURTEENTH.

It is especially denied that any gases or smoke emanating from the plant of this respondent or its co-defendant, and spreading over any part of the State of Georgia, have in any wise seriously or injuriously affected the health of the citizens

and inhabitants of the State of Georgia, or that it is threatening to do so. It is likewise untrue that the citizens of the State of Georgia have been deprived of the means of livelihood by reason of any fumes, gases, smoke or vapor arising from the plant of this respondent, or that they have been deprived of pure air, sunlight or the peaceable enjoyment of their homes and property, but on the contrary by reason of said operations the citizens of said counties have been furnished with means of livelihood of which they would be otherwise deprived.

FIFTEENTH.

This respondent knows nothing of the matters set forth in the fifteenth paragraph of the bill, and in so far as its rights and interests may be affected thereby demands strict proof of the same.

SIXTEENTH.

Respondent knows nothing of the matters and things set forth in the sixteenth paragraph of the bill, and in so far as its rights and interests may be affected thereby demands strict proof of the same.

SEVENTEENTH.

Respondent knows nothing of the matters and things set forth in paragraph seventeenth of the bill, and in so far as its rights and interests may be affected thereby demands strict proof of the same.

EIGHTEENTH.

In response to the eighteenth paragraph of the bill respondent says it knows nothing of the executive order therein referred to, but it admits that at the October term, 1903, of this Court,

suit was filed in this Court by permission of your Honors praying for substantially the same relief as prayed for in this cause.

NINETEENTH.

It is likewise admitted that shortly prior to the bringing of said suit the defendant Ducktown Sulphur, Copper & Iron Company, Limited, abandoned what was known as "open heap roasting," and was at the time of the bringing of said former suit, and had been for sometime prior thereto engaged in what is known as green ore or pyritic smelting. This respondent at the time of the institution of said suit was still reducing its ores by what was then known as "open heap roasting," and it is true as alleged in the bill that it was claimed at that time by the officials of the State of Georgia and was believed by the officials of this respondent that said open heap roasting of ores was the cause of some of such injury and damage as had been heretofore claimed, and it is further true that the agreement, copy of which is attached as Exhibit "E" to the bill, was entered into by this respondent upon the consideration of the dismissal of said former suit. Respondent refers to said agreement for its terms and conditions. In this connection respondent will show the Court that upon the insistence of the officials of the State of Georgia it abandoned its method of treating said ores, and adopted that then and theretofore in use by the Ducktown Sulphur, Copper & Iron Company, Limited. The said change of process was made at large expense to this respondent, as will be hereinafter more fully shown, and on April first, 1906, after the institution of present suit, completed and put into operation the 325-foot stack now in use.

TWENTIETH.

It is true, as alleged in the twentieth paragraph of the bill, that upon the abandonment of the open heap process of roasting

of ores as above set forth, this defendant constructed and instituted a new process for smelting and reducing said ores which was operated through the means of furnaces, but it is denied that said new process increased or made more powerful the said gases, fumes, smoke and vapors, or that it increased the damage or injuries theretofore done or extended the area affected thereby. As will be hereinafter more fully shown, respondent alleges and will show unto the Court that by the institution of said new process of green ore smelting the ores theretofore roasted upon open heaps near the ground have been smelted in furnaces, and the smoke and gases necessarily created by such smelting have been carried by means of flues and smoke stacks to a great height from the ground, and there discharged into the atmosphere, and so diluted by intermingling therewith and becoming diffused therewith as to become innocuous before reaching the ground, so as to do no injury whatever to vegetation, persons or plant life.

TWENTY-FIRST.

The statement in the twenty-first paragraph of the bill to the effect that this respondent has removed its roasting and reducing plant from a point several miles within the State of Tennessee to a location of only about a quarter of a mile from the Georgia line, is untrue. Said entire plant and works of respondent are where they were originally located and constructed, and they have never been removed since being constructed to any point nearer to the State of Georiga, or otherwise.

TWENTY-SECOND.

It is not true, as alleged in the twenty-second paragraph of the bill, that the damages theretofore alleged to have been

done have been largely increased during the year 1905. It is true that at the time of the filing of the bill this respondent was engaged in the erection of four new furnaces, and it is likewise true that said new furnaces were completed shortly after the bill was filed, and were placed in operation, and have been in operation practically ever since the filing of the bill. The said new furnaces did not double the capacity of plant of respondent, but were built partly to take the place of said old furnace then in use, and partly to bring up the capacity of the plant of this respondent to what it was prior to the abandonment of said open heap roasting as hereinafter shown, it requiring much more furnace capacity to handle the same amount of ores under the present method of smelting than under the method formerly in use. Said new furnaces were also erected in connection with the tall stack or chimney to be placed in use, and as hereinafter more fully shown, which was placed in use about April 1st, 1906, by means of which all smokes, and gases arising from said furnaces were carried higher into the air than theretofore, thus giving ample opportunity for the diffusion and dilution of same.

TWENTY-THIRD.

Respondent knows nothing of the matters set forth in the twenty-third paragraph of the bill, and in so far as its rights and interests may be affected thereby, demands strict proof of the same.

TWENTY-FOURTH.

Respondent knows nothing of the matters set forth in the twenty-fourth paragraph of the bill, and in so far as its rights and interests may be affected thereby, demands strict proof of the same.

TWENTY-FIFTH.

Respondent knows nothing of the matters set forth in the twenty-fifth paragraph of the bill, and in so far as its rights and interests may be affected thereby demands strict proof of the same.

TWENTY-SIXTH.

Respondent knows nothing of the matters set forth in the twenty-sixth paragraph of the bill, but supposes it to be true as set out therein, that the executive order was granted directing the institution of the present suit.

TWENTY-SEVENTH.

Respondent will further show unto the Court that its plant and operations are situated in Polk County, Tennessee, in what is known as the "Ducktown Basin" or mining district. It is a large basin from 8 to 10 miles in diameter, surrounded by high mountains on every side and is almost a sterile region from an agricultural standpoint. The land is very poor, the timber thereon is scarce, scrubby and unmerchantable and the entire population in fact is almost solely dependent upon the mining operations of defendants for their livelihood. Copper was discovered in this District about the year 1849 and operations for mining, development and smelting of same were begun about the year 1850 and have been carried on continuously within said district from that time until the present time with the intermissions hereinafter referred to. During the Civil War, there was some intermission in said mining and smelting, but thereafter the same were carried on until about the year 1879, the mining and smelting at that time being done by the Union Consolidated Mining Company. That Company having

failed in the year 1879, there was an intermission of about eleven years during which no mining or smelting of copper was carried on in said region. In the year 1891, the defendant Ducktown Sulphur, Copper & Iron Company began mining, roasting and smelting ore and during the following year, to wit, 1892 the Pittsburg and Tennessee Copper Company, the predecessor in title and operations of this respondent, began mining, roasting and smelting ore in said region, and for that purpose constructed roast heaps, smelters and furnaces and continued said operations until about the year 1899, when it sold and transferred all of its property to this respondent, Tennessee Copper Company, which Company, together with its co-defendant, the Ducktown Sulphur, Copper & Iron Company, Limited, have been continuously mining and smelting copper ore and manufacturing copper therefrom. So that with the exception of the intermissions above referred to, these companies and their predecessors had been continuously mining, smelting and refining copper ores within said district for some forty or fifty years prior ot the filing of the bill in this cause. Until about the year 1903, the method of smelting and reducing said ores was to first roast and burn the sulphur therefrom in open heaps upon the ground and this method was used continuously by this respondent, its co-defendant and their predecessors until about the year 1903, at which time the Ducktown Sulphur, Copper & Iron Company, Limited, changed its method of manufacturing copper, abandoned its roasting of ore in open heaps upon the ground and adopted what is known as green ore or pyritic smelting, and, as hereinbefore stated, suit having been brought in this court by plaintiff herein in the year 1903 upon the insistence of the plaintiff, this respondent likewise abandoned said open heap roasting and installed said green ore or pyritic smelt-

ing process at a very large expense to this respondent. It is true that while said ores were thus roasted in open heaps upon the ground that certain gases were liberated from the open heaps which following along upon and near the ground and coming in contact with vegetation did certain damage to vegetation in the community, some slight damage, perhaps, having been done to vegetation within the portion of the State of Georgia immediately adjacent to said works, but no complaints whatever have ever been received as to damage having been done to public roads, streams or highways or to the health of citizens of Georgia or any other state. In connection with said green ore smelting this respondent, likewise upon the insistence of the officials of the State of Georgia, and in furtherance of the general plan of this respondent to do everything possible to eliminate not only damage to vegetation, but to eliminate all complaint thereof, erected a tall stack or chimney, some 325 feet in height, into which all smoke and gases emanating from its said plant were carried, said stack having been completed and put into operation April first, 1906, after the filing of the bill in this cause. Said smoke and gases are carried to the said stack or chimney through a long flue several hundred feet long by means of which in certain dust chambers in said flue all harmful dust is eliminated from said smoke which is discharged into the air at this great height to the end that it may be diluted with the air and become diffused and become totally harmless and innocuous before reaching any vegetable or plant life. All of this has been done at great expense to this respondent and in an earnest and honest endeavor to entirely eliminate all complaint on the part of citizens in said locality, and complaints of damage from citizens of Georgia and Tennessee have practically ceased; and the operations as now carried on by the Tennessee Copper

Company do not cause any injury or damage to the plaintiff, or to the citizens of Georgia.

Respondent pleads the long continued laches and acquiescence of the plaintiff as above set forth as a complete bar and estoppel upon her both at Law and in Equity from now having the injunctive relief sought in this cause. Not only has the plaintiff by her said laches and acquiescence estopped herself to claim the equitable relief now sought, but her citizens living within the territory alleged to be affected and upon whose behalf this suit is brought have estopped themselves by similar laches and acquiescence and even over the territory described by the plaintiff as barren of forest and vegetation the barrenness has been caused to a very large degree by the fact that the timber has been cut by citizens from said premises and sold to defendants and their predecessors to be used in the erection of said plants and in their continued operations.

TWENTY-EIGHTH.

Respondent will further show that this suit is brought by the plaintiff on behalf of a small portion of her citizens living in said Counties adjacent to said copper works to right the supposed wrongs and correct the supposed grievances of said citizens and inhabitants and for that purpose and for that purpose alone; and that most of the citizens of this territory are not in sympathy with the purposes of this suit, and do not want to have the companies cease operations; that the plaintiff has suffered and is suffering no damage whatever to any property or right by reason of the matters complained of in the bill; that the allegations of damage to roads, streams and health and loss of revenue contained in the bill are wholly gratuitous and without foundation and respondent therefore says that the subject

matter of this suit is not matter properly justiciable in this Court at the suit of the State, said citizens having not only full, adequate and complete remedy at law for their alleged grievances but having the same remedy in equity which the plaintiff is assuming to exercise in their behalf.

TWENTY-NINTH.

As hereinbefore shown, the plant and works of respondent are situated upon its own lands (which respondent alleges constitute a large boundary of several thousand acres within said Ducktown Basin); that the ores being smelted and reduced at said works are mined from said lands; that they are of such a low grade and quality that their transportation to other points for smelting is not practicable and would cause financial ruin to the Company; that the district within which said ores are mined and smelted is one admirably adapted to the manufacture of copper; that the land is poor and practically unfit for agricultural purposes; that the timber thereon is scrubby, scarce and unmerchantable and in fact the entire population is almost wholly dependent upon said industries for their livelihood. Respondent will show to the Court that during all of these years, while it has been carrying on said mining operations in said community, it has been encouraged thereto by the plaintiff and her citizens and has expended millions of dollars in the development of its said properties, and the erection of its said furnaces and reduction works, and has converted what was formerly almost a desert containing in said entire Ducktown Basin in the year 1890 only 222 men, women and children, into a thriving, happy and prosperous community of from fifteen to twenty thousand inhabitants, almost totally dependent upon respondent and its co-defendant for their means of livelihood. Respondent further

alleges that it is using the latest, most improved and scientific methods in the treatment and smelting of its ores. That there is no known process of treating, smelting and reducing the same better adapted to said purpose than that now in use by respondent and none better calculated to prevent injury and damage to the surrounding community; that even if any damage is being done to plaintiff and her citizens, which is denied, that it is inconsiderable and susceptible of the most accurate approximation. On the other hand, respondent will show to the Court that to close down the operations of its plants at the suit of the plaintiff herein would cause great and irreparable damage, not only to it, but to the entire community dependent upon it. This respondent employs at its said works some three thousand men with an annual pay roll of nearly one million dollars. The granting of an injunction herein would have the effect of totally destroying the large investment of several million dollars which has been made in said enterprise, the complete destruction of the towns of Hiwassee, Isabella and McKays, whose population are almost solely dependent upon the continued operation of these works, and in very large loss to the entire surrounding community including the territory of the plaintiff described in the bill. Respondent is advised that even if damage is being done by reason of the matters complained of (which is denied) that, inasmuch as it is being done by respondent and its co-defendant while developing its own property in a business, lawful in itself and beneficial, not only to the community, but to commerce, and inasmuch as the damage suffered by the citizens of plaintiff is small in comparison with that which would be done by the granting of the injunctive relief sought; that a court of equity will refuse said injunction and leave the parties to their relief at law.

THIRTIETH.

And this respondent denies all and all manner of unlawful combination and confederacy wherewith it is by the said bill charged, without this, that there is any matter, cause or thing in the said plaintiff's said bill of complaint contained material or necessary for this defendant to make answer unto, and not herein or hereby answered, confessed, traversed, avoided or denied is true to the knowledge or belief of this defendant, all of which matters and things this defendant is ready and willing to aver, maintain and prove as this Honorable Court shall direct, and humbly prays to be hence dismissed with its reasonable costs and charges in this behalf most wrongfully sustained.

And in attestation of the truth of its answer it has caused the same to be signed by its President by authority of its Board of Directors and its corporate seal to be thereunto affixed.

TENNESSEE COPPER COMPANY,
By J. PARKE CHANNING,
President.

[SEAL.]

HOWARD CORNICK,
JOHN H. FRANTZ,
MARTIN H. VOGEL,
Attorneys for Defendant Tennessee Copper Company.

STATE OF NEW YORK, }
County of New York, } ss.:

Personally appeared before me, Ernest W. Brown, a Notary Public in and for the County aforesaid, J. Parke Channing, who being duly sworn upon his oath, says that he is the President of the Tennessee Copper Company, respondent in the foregoing answer, and that as such President he by authority of the Board of Directors signed the foregoing answer and affixed the corporate seal of the corporation thereto.

J. PARKE CHANNING.

Subscribed and sworn to before me on this }
the 17th day of November, 1906. }

ERNEST W. BROWN,

[SEAL.] Notary Public,

New York County.

In the Supreme Court of the United States

October Term, 1906

THE STATE OF GEORGIA, BY ITS ATTORNEY-GENERAL, JOHN C. HART,
Plaintiff,

vs.

THE TENNESSEE COPPER COMPANY AND THE DUCKTOWN SULPHUR, COPPER AND IRON COMPANY (LIMITED),
Defendants.

In Equity.

REPLICATION OF THE COMPLAINANT, THE STATE OF GEORGIA, TO THE ANSWER OF THE DEFENDANT, THE TENNESSEE COPPER COMPANY.

This replicant, the State of Georgia, by its Attorney-General, John C. Hart, saving and reserving to itself all and all manner of advantages of exception which may be had and taken to the manifold errors, uncertainties and insufficiencies of the answer of the defendant, the Tennessee Copper Company, for replication thereto sayeth that replicant doth and will aver, maintain and prove his said bill to be true, certain and sufficient in the law to be answered unto by said defendant, and that the answer of said defendant is very uncertain, evasive and insufficient in law to be replied to by this replicant; without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, confessed or avoided, traversed or denied, is true; all of which

matters and things this replicant is ready to aver, maintai
and prove as the Honorable Court shall direct, and humb
prays as in and by its said bill it hath already prayed.

JOHN C. HART,
Attorney-General of Georgia.

LIGON JOHNSON,
Solicitor for Complainant.